

## Message Text

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ACTION STR-04

INFO OCT-01 EUR-12 IO-13 ISO-00 STRE-00 AGRE-00 CEA-01  
CIAE-00 COME-00 DODE-00 EB-07 FRB-03 H-01 INR-07  
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05  
CIEP-01 SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02  
FEAE-00 OMB-01 XMB-02 OPIC-03 /104 W  
-----181715Z 081948 /43

P R 181630Z JAN 77  
FM USDEL MTN GENEVA  
TO SECSTATE WASHDC PRIORITY 2181  
INFO USMISSION EC BRUSSELS  
USEMBASSY BRUSSELS 6107

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ACTION STR

H PASS CODEL

EO 11652: NA  
TAGS: ETRD, MTN  
SUBJ: MEETING WITH EC ON DRAFT CUSTOMS VALUATION RULES

REF: A. STATE 9583, B. BRUSSELS 0168, C. MTN GENEVA 0158

1. SUMMARY: US-EC DELS MET TO DISCUSS CHUMAS DRAFT ON  
CUSTOMS VALUATION. EC LOOKING FOR POSITIVE US ATTITUDE  
TOWARDS FORMALIZING EC PROPOSAL AND DEMONSTRATED COOPERATIVE  
ATTITUDE. END SUMMARY.

2. AT REQUEST OF EC REPS (CHUMAS AND MULLINS) WE MET  
JANUARY 17 TO DISCUSS CHUMAS' DRAFT RULES ON CUSTOMS VALUA-  
TION. CHUMAS STATED THAT HE WAS LOOKING FOR A REACTION  
THAT HE COULD PASS ON TO THE MEMBER STATES REGARDING THE  
DRAFT'S ACCEPTABILITY TO THE UNITED STATES AS A BASIS FOR  
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NEGOTIATIONA HE SAID HE DID NOT EXPECT A SUBSTANTIVE  
REACTION  
FROM US, BUT RATHER SOME INDICATION OF WHETHER  
HHKWS ON THE RIGHT TRACK.

2. US MTN DEL (NEWKIRK) COMMENTED THAT THE US CONSIDERS  
THE DRAFT AN IMPORTANT DOCUMENT AND WE ARE GIVING IT CARE-

FUL CONSIDERATION (REF A). US VIEWS, HOWEVER, WOULD IN PART DEPEND UPON THE DRAFT'S STATUS WITHIN THE EC, I.E., WHETHER IT IS ONLY A PERSONAL DRAFT OR A COMMUNITY POSITION. CHUMAS RESPONDED THAT STATUS WOULD BE AFFECTED BY US INITIAL REACTION, BUT THAT HE PLANS TO PUT THE DRAFT TO THE 113 COMMITTEE MEETING ON JANUARY 21. IF ALL GOES WELL, IT WOULD BE TABLED AS A FORMAL PROPOSAL THIS SPRING. HE WOULD HOPE, HOWEVER, TO HAVE DETAILED DISCUSSION WITH THE US BEFORE THAT TIME. WE RESPONDED THAT WHILE THE US MAY PARTICIPATE IN SUCH DISCUSSIONS, THEY WOULD BE WITHOUT PREJUDICE AS TO WHAT POSITION THE US MIGHT TAKE AT THE NTM SUBGROUP MEETING.

3. US DEL RASIED THE QUESTIONS IN REF A AND RECEIVED RESPONSES AS FOLLOWS:

(A) NOTIONAL VALUE: MULLINGS AGREED WITH US DEL OBSERVATION THAT DRAFT MAINTAINS THE SAME RELATIONSHIP BETWEEN NOTIONAL AND TRANSACTION VALUE AS FOUND IN THE BDV. ALTHOUGH MULLINS DEFENDED THE USE OF THE NOTIONAL VALUE CONCEPT IN ORDER NOT TO SCARE BDV SIGNATORIES AWAY FROM NEGOTIATIONS, THE PRIMARY PURPOSE OF ARTICLE 1 IS TO DESCRIBE THE IMPORTING TRANSACTION SUBJECT TO THE CUSTOMS VALUATION RULES. CHUMAS AND MULLINS STRESSED, HOWEVER, THAT TRANSACTION PRICE (ART 10) WAS THE DRAFT'S KEY VALUATION PROVISION, WITH CHUMAS SUGGESTING THAT THE SECTION BE MOVED CLOSER TO ART 1.

(B) ARM'S LENGTH TRANSACTION: CHUMAS SAID THAT, ALTHOUGH THE EC IS INTERESTED IN PUTTING MORE DISCIPLINE ON LIMITED OFFICIAL USE

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CUSTOMS VALUATION OF NON-ARM'S LENGTH TRANSACTIONS, THE DRAFT CONTAINED THE ONLY IDEAS HE HAS COME UP WITH TO DATE. HE ADDED THAT ANY IDEAS THAT THE US HAS ON THE TREATMENT OF NON-ARM'S LENGTH TRANSACTIONS WOULD BE GREATLY APPRECIATED.

(C) US VALUE AND COST OF PRODUCTION: IN CHUMAS' VIEW THE EQUIVALENT OF US VALUE INCORPORATED IN THE DRAFT IS AN EASIER METHOD OF ASCERTAINING VALUE IN RELATED PARTY TRANSACTIONS THAN USING A COST OF PRODUCTION. COSTS OF PRODUCTION ARE IMPRECISE INVOLVING ARBITRARY ALLOCATION OF COSTS (E.G. R AND D) AND A WIDE-RANGE OF ACCOUNTING CONCEPTS THAT VARY FROM COMPANY TO COMPANY. CHUMAS AND MULLINS MUSED THAT ADOPTION OF COST OF PRODUCTION IN AN INTERNATIONAL VALUATION CODE COULD LEAD TO SITUATIONS WHERE "UGANDAN OFFICIALS WOULD DEMAND TO SEE GENERAL MOTORS ACCOUNTING RECORDS" AND TO "INDUSTRIAL ESPIONAGE."

(D) CCC AND THE MTN: CHUMAS REFERRED TO CURRENT DIFFI-

CULTIES WITH CCC (REFS B,C) AND "HOSTILE" REACTION OF E. BOSCH. AFTER LENGTHY EXPLANATION OF EC/MEMBERSTATE AND CCC INTERPLAY, CHUMAS INDICATED THAT HIS VIEW, SHARED BY COMMISSIONER GUNDELACH, IS TO ACHIEVE AS MUCH AS POSSIBLE ON VALUATION IN THE MTN FORUM. ONCE THE "PROPER MACHINERY" IS IN PLACE, THE CCC WOULD BE INVITED TO ADOPT A NEW VALUATION CONVENTION. THE EC'S OFFICIAL POSITION IS THAT THE CCC SHOULD BE RESPONSIBLE FOR THE DAY TO DAY ADMINISTRATION OF CUSTOMS VALUATION RULES AND THAT A NEW, MODERN CONVENTION SHOULD PROMOTE, RATHER THAN STIFLE, THE CCC'S EFFECTIVENESS. CHUMAS INTENDS TO APPROACH CLAWSEN OF THE CCC IN ORDER TO RE-ESTABLISH A CONSTRUCTIVE WORKING RELATIONSHIP WITH THE SECRETARIAT.

4. COMMENT: AS USUAL, CHUMAS APPEARED FRANK, OPEN, AND WILLING TO DEAL WITH ALL ISSUES RAISED. IN REGARD TO HIS DRAFT, HE STATED THAT HE IS WILLING TO EXPAND IT TO LIMITED OFFICIAL USE

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WHATEVER LEVEL OF DETAIL NECESSARY. IN EXPLORING CERTAIN TECHNICAL QUESTIONS RAISED BY THE DRAFT, HE WAS VERY RECEPTIVE TO MAKING CHANGES. THIS ATTITUDE SHOULD BE USEFUL FOR NEGOTIATIONS ON VALUATION. END COMMENT. WALKER

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## Message Attributes

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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
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**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Reference:** 77 STATE 9583, 77 BRUSSELS 168, 77 MTN GENEVA 158  
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**Secure:** OPEN  
**Status:** NATIVE  
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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009